

HOUSE BILL REPORT

SSB 6367

As Reported by House Committee On:
Local Government

Title: An act relating to voluntary measures to protect critical areas.

Brief Description: Requiring voluntary measures be included in critical area development regulations.

Sponsors: Senate Committee on Government Operations & Elections (originally sponsored by Senators Haugen, Jacobsen and Berkey).

Brief History:

Committee Activity:

Local Government: 2/23/06 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House Committee)**

- Encourages the employment of voluntary measures, incentives, and educational programs with respect to Growth Management Act planning and regulation for the protection of critical areas in rural environments.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended. Signed by 7 members: Representatives Simpson, Chair; Clibborn, Vice Chair; Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; B. Sullivan, Takko and Woods.

Staff: Thamas Osborn (786-7129).

Background:

Growth Management Act Planning Requirements

The Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. Counties and cities meeting specific population and growth criteria are required to comply with the major requirements of the GMA. Counties not meeting these criteria may choose to plan under the GMA. Twenty-nine of 39 counties, and the cities within those 29 counties, are required to or have chosen to comply with the major requirements of the GMA (GMA jurisdictions).

Among numerous planning requirements, GMA jurisdictions must adopt internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land

use policy statements of the governing body. Each comprehensive plan must include certain elements, including land use, housing, transportation, and rural elements.

The rural element of a comprehensive plan must specify provisions for lands not designated for urban growth, agriculture, forest, or mineral resources. Such provisions include:

- protecting critical areas, as well as surface and ground water resources;
- allowing counties to consider local circumstances when establishing patterns of rural densities and uses;
- permitting specific development, varieties of densities, uses, essential public facilities, and rural government services;
- requiring measures governing rural development, including measures to protect an area's rural character; and
- permitting limited areas of more intensive rural development, including necessary public facilities and public services to serve such areas.

GMA Planning Requirements for Critical Areas

In addition to other GMA requirements, all local governments must designate and protect critical areas in both urban and rural environments. Critical areas are defined by statute to include wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. Each county and city must include the "best available science" in developing policies and development regulations to protect the functions and values of critical areas. The GMA does not define "best available science."

Summary of Amended Bill:

In order to protect critical areas located in rural environments, GMA comprehensive plans should include provisions encouraging the employment of voluntary measures, incentives, and educational programs, to the extent that such voluntary approaches can be effective.

Provides an intent section stating the importance of encouraging voluntary measures for the protection of the environment.

Amended Bill Compared to Substitute Bill:

- Deletes references to "existing and nonconforming uses" in a provision encouraging voluntary approaches to protecting critical areas from the effects of rural development.
- Encourages the use of voluntary measures, incentives, and educational programs to the extent that such voluntary approaches can be effective in the protection of critical areas from the effects of rural development.
- Revises the legislative findings in the intent section by deleting a reference to "existing and nonconforming uses of land" and adding text stating that voluntary

approaches can "result in improved protection for the environment and enhance environmental quality and our quality of life."

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill encourages local governments to implement comprehensive plans that include voluntary, incentive-based approaches for the protection of critical areas in rural settings. The key to protecting the environment is to provide citizens with the information they need and then allow them to take the initiative to implement voluntary measures. When provided with encouragement and the pertinent information, most citizens can be trusted to take the steps necessary to take care of the environment in which they live. Education is much more effective than regulation and will encourage people to be good stewards of the land. The active, voluntary participation of the community in efforts to protect the environment will, in the long run, lead to better environmental protection than heavy-handed regulatory approaches. Island County has been very successful at implementing approaches to environmental protection that emphasize education and voluntarism. The bill focuses on voluntary approaches to dealing with the environmental effects of existing and nonconforming uses. Such uses present problematic regulatory issues and are the subject of substantial litigation.

Testimony Against: Although it is important to encourage the public to voluntarily implement measures to protect the environment, such voluntarism cannot take the place of environmental regulations. Accordingly, the current regulatory tools should not be diminished in favor of voluntary, incentive-based approaches. The language in the bill indicating that the regulation of existing and nonconforming uses should be focused on voluntary approaches is misguided. The amendment takes the better approach by leaving out the references to existing and nonconforming uses. Voluntary approaches should be encouraged, but only to the extent to which they prove to be effective in protecting critical areas.

Persons Testifying: (In support) Senator Haugen, prime sponsor; Jack Field, Washington Cattlemen's Association; Judy Feldman, Washington State University Extension-Island County; and Eric Johnson, Washington State Association of Counties.

(Opposed) Kaleen Cottingham, Futurewise.

Persons Signed In To Testify But Not Testifying: None.